

REMARKS

Claims 1 and 2 are currently pending in the present application. Claims 1 and 2 have been amended, which support may be found in the original claims and in the specification, at least, at paragraphs [0018], [0019] and [0025] – [0027]. New claims 3-20 have been added which are supported in the specification, at least, at paragraphs [0020] and [0033] and the Examples. Further reconsideration on the merits is requested in view of the following remarks.

Rejections Under 35 U.S.C. § 102(a)

Claims 1 and 2 stand rejected as being anticipated by WO 2004/0033716 and JP 2004-129584. Applicants respectfully traverse.

The present application is a National Stage application of PCT/JP2004/009117 which has a priority date of **June 30, 2003**. Applicants intend to submit a certified English translation of Applicants' earlier foreign priority application that supports all the claims of the U.S. application (JP 2003-188247). Thus, the present application should be entitled to the above-noted priority date.

The priority date of the present application precedes the publication date of WO/2004/003716 (April 30, 2004) and JP2004-129587 (April 22, 2004). Thus, these applications cannot be considered as prior art, within the meaning of 35 U.S.C. § 102.

Applicants respectfully request withdrawal of the outstanding rejections.

Rejection Under 35 U.S.C. § 103

Claims 1 and 2 stand rejected as being rendered obvious by JP 1990-414354 to Yamazaki (hereinafter "Yamazaki"). Applicants respectfully traverse.

Applicants respectfully submit that Yamazaki is directed to teaching the diagnosis of periodontosis by measuring γ -glutamyltranspeptidase (gamma-GTP) in saliva. The method makes no distinction between gingivitis and periodontitis. However, the presently claimed invention provides a method wherein periodontitis is distinctly diagnosed.

Periodontitis, which involves the absorption of the alveolar bone, is noted by more severe inflammation than gingivitis. There has been a demand in the art for methods which distinguish gingivitis from periodontitis.

Yamazaki measures the gamma-GTP in saliva. Gamma-GTP is detected in saliva in the case of both gingivitis and periodontitis. It is impossible to distinguish between gingivitis and periodontitis on this basis. Rather, the present invention facilitates the diagnosis of periodontitis by the measurement of gamma-GTP in the gingival crevice. The importance of measuring gamma-GTP in this area is not at all recognized by the prior art.

Additionally, Yamazaki notes that the gamma-GTP is produced by oral cavity bacteria. On the contrary, the present invention discloses that the gamma-GTP is derived from the gingival crevicular fluid of a patient. Therefore, the source of the gamma-GTP is entirely different from that disclosed in the prior art.

Finally, the present invention demonstrates that gamma-GTP induces osteoclast activation. This feature is notably missing in the cited prior art.

"[A] patentable invention may lie in the discovery of the source of a problem." *In re Spinnoble*, 405 F.2d 578, 585, 160 USPQ 237, 243 (CCPA 1969). Applicants respectfully submit that because the cited prior art did not recognize that buildup of gamma-GTP in the gingival crevicular fluid is capable of distinguishing between gingivitis and periodontitis, it cannot properly render the present invention obvious. Additional new claims which further distinguish the present invention from the cited prior art have been added. Reconsideration and withdrawal of the outstanding rejection are respectfully requested.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 1 and 2 stand rejected as being indefinite. Specifically, the Examiner states that the language "judging the onset" and "the blood collected around the buried implant" is unclear.

Applicants have amended claims 1 and 2 to replace the questioned language with language that more clearly defines the presently claimed invention. Thus, Applicants submit that the Examiner's concerns have been fully addressed. Reconsideration and withdrawal are respectfully requested.

In view of the foregoing, Applicants believe the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

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Respectfully submitted,

By 

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